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IDAHO PUBLIC UTILITIES COMMISSION

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	
OF IDAHO POWER COMPANY FOR)	CASE NO. IPC-E-20-27
APPROVAL OR REJECTION OF AN)	
ENERGY SALES AGREEMENT WITH)	
COLEMAN HYDROELECTRIC LLC)	COMMENTS OF THE
)	COMMISSION STAFF
)	

The Staff of the Idaho Public Utilities Commission ("Staff") comments as follows on Idaho Power Company's Application.

BACKGROUND

On June 25, 2020, Idaho Power Company ("Company") asked the Commission to approve or reject the Company's proposed new Energy Sales Agreement ("ESA") with Coleman Hydroelectric LLC ("Seller") for the energy generated by the Coleman Hydro Project (the "Facility"). *Application* at 2. The Facility is a qualifying facility ("QF") under the Public Utility Regulatory Policies Act of 1978 ("PURPA").

The ESA specifies two types of effective dates. First, the ESA's "Effective Date" is June 19, 2020, which is the date by which all parties had signed it. *See* ESA p. 3, § 1.11 (the ESA's "Effective Date" is "[t]he date stated in the opening paragraph of this [ESA] representing

the date upon which this [ESA] was fully executed by both Parties”) and ESA at p. 35 (reflecting the Seller signed the ESA on June 8, 2020, and the Company signed the ESA on June 19, 2020).

Second, ESA § 21.1 clarifies the ESA does not become “finally effective” until the Commission has approved it and declared that the Commission will allow the Company’s payments to the Seller for energy as prudently incurred expenses for ratemaking purposes. *See* ESA at p. 31, § 21.1. Thus, the ESA will not be “finally effective” until a final approving order issues in this case.

The Company represents that under the ESA the Seller would sell Facility-generated electricity to the Company at published non-levelized, seasonal hydroelectric avoided cost rates that became effective on June 1, 2019, as set by Order No. 34350, for a 20-year term. *Application* at 3. The Commission updated published non-levelized, seasonal hydroelectric avoided cost rates in Order No. 34683, which became effective on June 1, 2020. *See* Order No. 34683.

STAFF REVIEW

Staff recommends the Commission approve the proposed ESA if the parties update the ESA’s avoided cost rates to those set by Commission Order No. 34683. Staff based its recommendation on its analysis of the ESA, which focused on: 1) the 90/110 rule, with at least five-day advanced notice for adjusting Estimated Net Energy Amounts; 2) eligibility for and the amount of capacity payments; and 3) review of published avoided cost rates. Staff summarizes its analysis below.

90/110 Rule and 5-Day Advanced Notice for Adjusting Estimated Net Energy Amounts

Staff confirmed the ESA contains the 90/110 Rule as required by Commission Order 29632. The 90/110 Rule requires a QF to provide utilities with a monthly estimate of the amount of energy the QF expects to produce. If the QF delivers more than 110 percent of the estimated amount, then the utility must buy the excess energy for the lesser of 85 percent of the market price or the contract price. If the QF delivers less than 90 percent of the estimated amount, then the utility must buy total energy delivered for the lesser of 85 percent of the market price or the contract price. *See* Order No. 29632 at 20.

Staff also confirmed the ESA requires the Seller to give the Company five-day advanced notice if the Seller wants to adjust its Estimated Net Energy Amounts for purposes of complying

with 90/110 firmness requirements. Staff believes this timeframe is reasonable and appropriate here.

The Commission has approved five-day notice in other cases because the Company can more accurately plan its short-term operations if the QF submits its Estimated Net Energy Amounts closer to when the QF delivers energy to the Company. *See, e.g.*, Case Nos. IPC-E-19-01, IPC-E-19-03, IPC-E-19-04, IPC-E-19-07, and IPC-E-19-12. These cases involved existing QFs with ample historical generation data. But the principle remains the same where, as here, the ESA involves a new QF project: for short-term planning on any project—whether old or new—the Company’s short-term planning benefits because forecasts are more accurate when made closer to actual delivery.

While five-day notice is appropriate here, longer notice could sometimes benefit the Company. For example, if a project were to give month-ahead notice before adjusting an estimate, then the Company’s month-ahead planning could capture that adjustment. Under a five-day timeframe, the Company’s month-ahead planning for that month would not capture that adjustment. Here, the Company expressed, through an August 4, 2020 e-mail, that the benefits of more accurate monthly estimates in short-term operations provided by the five-day notice outweigh the need for month-ahead adjustments of monthly estimates, even for new projects that lack historical generation data. Staff concurs, and believes a five-day advanced notice is appropriate for both new and existing projects, including the new QF project at issue here.

Capacity Payment

Utilities compensate QFs for capacity only when the utility is capacity deficient, unless the QFs are renewal projects that have been paid for capacity or the QFs have contributed to meeting the utility’s capacity needs at the end of the original contracts. *See* Order Nos. 32697 and 34295. Because this QF is a new project, the Company will not start paying the Seller for capacity until 2026, which is the Company’s first capacity deficit year as determined in Order No. 33898.

Avoided Cost Rates

The Commission has determined that QFs cannot lock-in a certain rate until the QF has: (1) a signed contract to sell at that rate, or (2) a meritorious complaint alleging the project is

mature and the QF has attempted and failed to negotiate a contract with the utility; that is, there would be a contract but for the utility's conduct. *See A.W. Brown Co., Inc. v. Idaho Public Utilities Commission*, 121 Idaho 812, 815, 828 P.2d 841, 844 (1992); *see also Rosebud Enterprises, Inc. v. Idaho Public Utilities Commission*, 131 Idaho 1, 951 P.2d 521 (1997); *Idaho Power Company v. Idaho Public Utilities Commission*, 155 Idaho 780, 316 P.3d 1278 (2013); Commission Order Nos. 32257 and 32635. Here, the Seller can lock-in a rate because it has an ESA with the Company and that ESA entitles the Seller to sell at a specified rate.

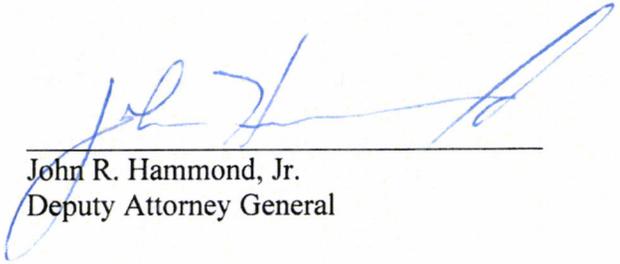
Staff takes issue, however, with the rate specified in the ESA. The ESA's Effective Date of June 19, 2020, occurred after the Commission updated its published non-levelized, seasonal hydroelectric avoided cost rates on June 1, 2020. *See* Order No. 34683 (updating published avoided rates); ESA p. 1 opening paragraph, p. 3, § 1.11, and p. 35 (Effective Date is June 19, 2020, which is the date by which all parties had signed the ESA). Thus, the Company's proposed published avoided cost rates for the ESA—the old rates set by Order No. 34350—are unavailable because the ESA was fully executed and effective after new rates took effect on June 1, 2020 per Order No. 34683. *See A.W. Brown Co., Inc.*, 121 Idaho at 815, 828 P.2d at 844; *Rosebud*, 131 Idaho 1, 951 P.2d 521 (1997); *Idaho Power Company*, 155 Idaho 780, 316 P.3d 1278; Commission Order Nos. 32257 and 32635. The Commission should thus condition its approval of the ESA on the Company and Seller updating the ESA's published avoided cost rates to those set in Order No. 34683, which Staff has attached hereto as Attachments A and B to these comments.¹

STAFF RECOMMENDATIONS

In summary, Staff recommends of the Commission approve the proposed ESA on condition that the parties update the ESA's published avoided cost rates to those authorized by Order No. 34683. Staff also recommends that, if the parties update the ESA, the Commission declare the Company's payments to the Seller under the ESA for energy be allowed as prudently incurred expenses for ratemaking purposes.

¹ Attachment A contains published, non-levelized, seasonal hydro avoided cost rates approved in Order No. 34683. Attachment B contains published, non-levelized, non-seasonal hydro avoided cost rates approved in Order No. 34683. Seasonal hydro QFs need to produce at least 55% of its annual generation during the months of June, July, and August to be paid seasonal avoided cost hydro rates. Order No. 32802. Otherwise, they will be paid at non-seasonal avoided cost hydro rates.

Respectfully submitted this ^{6th} day of August 2020.



John R. Hammond, Jr.
Deputy Attorney General

Technical Staff: Yao Yin
Rachelle Farnsworth

i:umisc:comments/ipce20.27jhyrf comments

ATTACHMENT A

Year	Seasonal Hydro Base Energy Heavy Load Purchase Price (Mills/kWh)			Seasonal Hydro Base Energy Light Load Purchase Price (Mills/kWh)			Seasonal Hydro All Hours Energy Price (Mills/kWh)		
	Season 1	Season 2	Season 3	Season 1	Season 2	Season 3	Season 1	Season 2	Season 3
2020	18.39	30.03	25.03	13.04	21.30	17.75	16.01	26.14	21.79
2021	19.90	32.49	27.07	14.55	23.75	19.79	17.52	28.60	23.83
2022	19.95	32.57	27.14	14.60	23.83	19.86	17.57	28.68	23.90
2023	20.70	33.80	28.17	15.35	25.07	20.89	18.32	29.92	24.93
2024	22.25	36.32	30.27	16.90	27.59	22.99	19.87	32.44	27.03
2025	24.65	40.24	33.54	19.30	31.51	26.26	22.27	36.36	30.30
2026	63.83	104.21	86.84	58.48	95.48	79.56	61.45	100.32	83.60
2027	66.13	107.96	89.97	60.77	99.22	82.69	63.74	104.07	86.73
2028	67.96	110.96	92.46	62.61	102.22	85.18	65.58	107.07	89.22
2029	69.25	113.06	94.22	63.90	104.33	86.94	66.87	109.17	90.98
2030	70.06	114.39	95.33	64.71	105.66	88.05	67.68	110.50	92.09
2031	71.13	116.14	96.78	65.78	107.40	89.50	68.75	112.25	93.54
2032	72.67	118.64	98.87	67.32	109.91	91.59	70.29	114.75	95.63
2033	74.45	121.54	101.29	69.09	112.81	94.01	72.06	117.66	98.05
2034	76.15	124.33	103.61	70.80	115.59	96.33	73.77	120.44	100.37
2035	77.68	126.82	105.68	72.33	118.08	98.40	75.30	122.93	102.44
2036	79.25	129.39	107.83	73.90	120.66	100.55	76.87	125.51	104.59
2037	81.46	132.99	110.83	76.11	124.26	103.55	79.08	129.11	107.59
2038	83.36	136.11	113.42	78.01	127.37	106.14	80.98	132.22	110.18
2039	84.96	138.71	115.59	79.61	129.98	108.31	82.58	134.82	112.35
2040	86.60	141.39	117.82	81.25	132.65	110.54	84.22	137.50	114.58
2041	88.20	143.99	119.99	82.84	135.26	112.71	85.81	140.10	116.75
2042	89.94	146.85	122.37	84.59	138.11	115.09	87.56	142.96	119.13

ATTACHMENT B

Year	Non-seasonal Hydro Base Energy Heavy Load Purchase Price (Mills/kWh)			Non-seasonal Hydro Base Energy Light Load Purchase Price (Mills/kWh)			Non-seasonal Hydro All Hours Energy Price (Mills/kWh)		
	Season 1	Season 2	Season 3	Season 1	Season 2	Season 3	Season 1	Season 2	Season 3
2020	18.39	30.03	25.03	13.04	21.30	17.75	16.01	26.14	21.79
2021	19.90	32.49	27.07	14.55	23.75	19.79	17.52	28.60	23.83
2022	19.95	32.57	27.14	14.60	23.83	19.86	17.57	28.68	23.90
2023	20.70	33.80	28.17	15.35	25.07	20.89	18.32	29.92	24.93
2024	22.25	36.32	30.27	16.90	27.59	22.99	19.87	32.44	27.03
2025	24.65	40.24	33.54	19.30	31.51	26.26	22.27	36.36	30.30
2026	49.02	80.04	66.70	43.67	71.30	59.42	46.64	76.15	63.46
2027	51.10	83.43	69.52	45.75	74.69	62.24	48.72	79.54	66.28
2028	52.72	86.07	71.72	47.36	77.33	64.44	50.33	82.18	68.48
2029	53.78	87.81	73.17	48.43	79.07	65.89	51.40	83.92	69.93
2030	54.37	88.76	73.97	49.02	80.03	66.69	51.99	84.88	70.73
2031	55.21	90.13	75.11	49.86	81.40	67.83	52.82	86.24	71.87
2032	56.51	92.26	76.88	51.16	83.52	69.60	54.13	88.37	73.64
2033	58.05	94.77	78.97	52.70	86.03	71.69	55.67	90.88	75.74
2034	59.51	97.16	80.97	54.16	88.42	73.69	57.13	93.27	77.73
2035	60.79	99.25	82.71	55.44	90.52	75.43	58.41	95.37	79.47
2036	62.12	101.42	84.52	56.77	92.69	77.24	59.74	97.53	81.28
2037	64.07	104.61	87.18	58.72	95.87	79.90	61.69	100.72	83.94
2038	65.72	107.30	89.42	60.37	98.57	82.14	63.34	103.42	86.18
2039	67.06	109.49	91.24	61.71	100.75	83.96	64.68	105.60	88.00
2040	68.43	111.73	93.11	63.08	102.99	85.83	66.05	107.84	89.87
2041	69.76	113.90	94.92	64.41	105.16	87.64	67.38	110.01	91.68
2042	71.24	116.31	96.93	65.89	107.58	89.65	68.86	112.43	93.69

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 6TH DAY OF AUGUST 2020, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. IPC-E-20-27, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

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SECRETARY

CERTIFICATE OF SERVICE